

## **REMARKS/ARGUMENTS**

### **I. General Remarks.**

Applicants respectfully request that the Examiner reconsider the application in view of the following remarks.

### **II. Disposition of the Claims.**

At the time of the Office Action, Claims 1-48 were pending in the application. Claims 1-48 were rejected. Claims 1, 3, 5-7, 9-11, 15, 17, 19, 21-23, 25-27, 31, 33, 35, 37-39, 41-43, and 47 have been amended. Claims 13, 29, and 45 have been canceled without prejudice or disclaimer.

### **III. Remarks Regarding Rejections Under 35 U.S.C. § 102.**

#### **A. Claims 1-3, 6-11, 17-19, 22-27, 33-35, and 38-43 are not Anticipated by the *Harris* Reference.**

Claims 1-3, 6-11, 17-19, 22-27, 33-35, and 38-43 were rejected under U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,566,760 issued to Harris ("*Harris*"). Applicants respectfully traverse these rejections for the reasons noted below.

In order to establish a *prima facie* case of anticipation, all the elements of the claimed invention must be found within a single prior art reference. M.P.E.P. § 706.02; *Dewey & Almy Chemical Co. v. Mimex*, 124 F.2d 986, 52 USPQ 138 (2d Cir. 1942). Applicants respectfully submit that each and every element of Claims 1-3, 6-11, 17-19, 22-27, 33-35, and 38-43 is not found within the *Harris* reference.

Claim 1, as amended, recites:

A method of treating a subterranean formation penetrated by a well bore comprising:

preparing or providing an aqueous treating fluid composition comprising water, a water soluble hydrophobically modified gelling agent polymer produced by grafting a low concentration of hydrophobic monomers onto said gelling agent polymer, and an ionic surfactant having a hydrophobic chain portion associated with said hydrophobic monomers grafted onto said gelling agent polymer resulting in gelling agent polymer molecules having increased radiuses of gyration, wherein said

ionic surfactant is present in said treating fluid composition in an amount in the range of from about 0.01% to about 0.025% by weight of said composition; and  
pumping said aqueous treating fluid composition into said subterranean formation.

Applicants respectfully submit that *Harris* fails to teach, suggest, or disclose each of these elements. Specifically, *Harris* fails to teach, suggest, or disclose that an “ionic surfactant is present in said treating fluid composition in an amount in the range of from about 0.01% to about 0.025% by weight of said composition.” Instead, *Harris* discloses that “[t]he concentration of the surfactant in the liquid phase of the formulation is typically in the range of from about 0.3 gal of surfactant per 1000 gals of aqueous phase [0.03% by volume] to about 10 gal of surfactant per 1000 gals of aqueous phase [1.0% by volume].” Col. 9, ll. 45-48. The Examiner contends that “the lower end of [this range] should include at least the upper end of the range recited in the specification (about 0.025 weight percent) when all the unit conversions are made.” Office Action, pp. 3-4. The Examiner, however, fails to provide any basis for this statement. In fact, the Examiner is incorrect. The surfactants disclosed in *Harris* generally have densities approaching that of water. Therefore, the about 0.03 volume percent disclosed in *Harris* would still be above the about 0.025 weight percent recited in Claim 1 when the appropriate unit conversion is made. For at least this reason, Claim 1 is allowable over the cited art. As such, Applicants respectfully request that the rejection of Claim 1 be withdrawn. Should the Examiner continue to maintaining this rejection, Applicants respectfully request that the Examiner explicitly show how at least one of the surfactants disclosed by *Harris* is present in the treating fluid composition in an amount from about 0.01% to about 0.025% by weight of the composition.

Similar to Claim 1, Claims 17 and 33 also recite an ionic surfactant “present in said treating fluid composition in an amount in the range of from about 0.01% to about 0.025% by weight of said composition. Therefore, Applicants submit that Claims 17 and 33 are allowable, for example, for reasons similar to those discussed above with regard to Claim 1. As such, Applicants respectfully request that the rejections of Claims 17 and 33 be withdrawn.

Claims 2, 3, 6-11, 18, 19, 22-27, 34, 35, and 38-43 depend, directly or indirectly, from independent Claims 1, 17, and 33. Therefore, Applicants submit that Claims 2, 3, 6-11, 18, 19, 22-27, 34, 35, and 38-43 are allowable, for example, for reasons similar to those discussed above

with regard to Claims 1, 17, and 33. As such, Applicants respectfully request that the rejections of Claims 2, 3, 6-11, 18, 19, 22-27, 34, 35, and 38-43 be withdrawn.

**B. Claims 1, 2, 5, 10, 12, 14-16, 33, 34, 37, 42, 44 and 46-48 are not Anticipated by the *Davies* Reference.**

Claims 1, 2, 5, 10, 12, 14-16, 33, 34, 37, 42, 44 and 46-48 were rejected under U.S.C. § 102(b) as being anticipated by PCT Application No. WO99/50530, corresponding to U.S. Patent No. 6,920,928 issued to Davies et al. ("*Davies*"). Applicants respectfully traverse these rejections for the reasons noted below.

As stated above, all the elements of the claimed invention must be found within a single prior art reference in order to establish a *prima facie* case of anticipation. M.P.E.P. § 706.02; *Dewey & Almy Chemical Co. v. Mimex*, 124 F.2d 986, 52 USPQ 138 (2d Cir. 1942). *Davies*, however, fails to teach, suggest, or disclose each and every element of Claims 1, 2, 5, 10, 12, 14-16, 33, 34, 37, 42, 44 and 46-48. Specifically, *Davies* fails to teach, suggest, or disclose that an "ionic surfactant is present in said treating fluid composition in an amount in the range of from about 0.01% to about 0.025% by weight of said composition," as recited in Claims 1 and 33. Therefore, Applicants submit that Claims 1 and 33 are allowable over the cited art, and respectfully request that the rejections of Claim 1 and 33 be withdrawn.

Claims 2, 5, 10, 12, 14-16, 34, 37, 42, 44, and 46-48 depend, directly or indirectly, from independent Claims 1 and 33. Therefore, Applicants submit that Claims 2, 5, 10, 12, 14-16, 34, 37, 42, 44, and 46-48 are allowable, for example, for reasons similar to those discussed above with regard to Claims 1 and 33. As such, Applicants respectfully request that the rejections of Claims 2, 5, 10, 12, 14-16, 34, 37, 42, 44, and 46-48 be withdrawn.

**IV. Remarks Regarding Rejections Under 35 U.S.C. § 103.**

**A. Claims 1, 2, 4-9, 11, 14, 15, 17, 18, 20-25, 27, 30-34, 36-41, 43, 46, and 47 are not Obvious in Light of the *Miller* Reference.**

Claims 1, 2, 4-9, 11, 14, 15, 17, 18, 20-25, 27, 30-34, 36-41, 43, 46, and 47 were rejected under U.S.C. § 103(a) as being obvious in light of U.S. Patent No. 6,605,570 issued to Miller et al. ("*Miller*"). Applicants respectfully traverse these rejections for the reasons noted below.

In order to establish a *prima facie* case of obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art. M.P.E.P. § 706.02; *In re Royka*, 490 F.2d 981 (CCPA 1974). Applicants respectfully submit that each and every element of 1, 2, 4-9, 11, 14, 15, 17, 18, 20-25, 27, 30-34, 36-41, 43, 46, and 47 is not taught, suggested, or disclosed within the *Miller* reference. Specifically, *Miller* fails to teach, suggest, or disclose that an “ionic surfactant is present in said treating fluid composition in an amount in the range of from about 0.01% to about 0.025% by weight of said composition,” as recited in Claims 1 and 33. Therefore, Applicants submit that Claims 1 and 33 are allowable over the cited art, and respectfully request that the rejections of Claim 1 and 33 be withdrawn.

Claims 2, 4-9, 11, 14, 15, 18, 20-25, 30-32, 34, 36-41, 43, 46, and 47 depend, directly or indirectly, from independent Claims 1, 17, and 33. Therefore, Applicants submit that Claims 2, 4-9, 11, 14, 15, 18, 20-25, 30-32, 34, 36-41, 43, 46, and 47 are allowable, for example, for reasons similar to those discussed above with regard to Claims 1, 17, and 33. As such, Applicants respectfully request that the rejections of Claims 2, 4-9, 11, 14, 15, 18, 20-25, 30-32, 34, 36-41, 43, 46, and 47 be withdrawn.

**B. Claims 17 and 28 are not Obvious in Light of the *Miller* Reference in View of the *Davies* Reference.**

Claims 17 and 28 were rejected under U.S.C. § 103(a) in light of *Miller* in view of *Davies*. Applicants respectfully traverse these rejections. As stated above, *Miller* fails to teach, suggest, or disclose that an “ionic surfactant is present in said treating fluid composition in an amount in the range of from about 0.01% to about 0.025% by weight of said composition,” as recited in Claims 1 and 33. This limitation also appears in Claim 17, and therefore all claims depending therefrom. As such, Applicants submit that Claims 17 and 28 are allowable, for example, for reasons similar to those discussed above with regard to Claims 1 and 33. Applicants respectfully request that the rejections of Claims 17 and 28 be withdrawn.

**SUMMARY**

In light of the above remarks and amendments, Applicants respectfully request reconsideration and withdrawal of the outstanding objections and rejections. Applicants further submit that the application is now in condition for allowance, and earnestly solicit timely notice of the same. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile, or electronic mail.

Applicants hereby take an Extension of Time for responding to the Examiner's Office Action dated August 22, 2005 for two (2) months from November 22, 2005 to January 22, 2006. The Commissioner is hereby authorized to debit Deposit Account No. 08-0300 of Halliburton Energy Services, Inc. (Reference Number 2002-IP-007995U1) in the amount of \$450.00 to satisfy the fee required under 37 C.F.R. § 1.17(a).

Should the Commissioner deem that any other fees are due in association with this filing, including any other fees for extensions of time, the Commissioner is further authorized to debit the Deposit Account No. 08-0300 of Halliburton Energy Services, Inc. (Reference Number 2002-IP-007995U1) for any such underpayment.

Respectfully submitted,



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Robert A. Kent  
Registration No. 28,626  
Halliburton Energy Services, Inc.  
2600 South Second Street  
P.O. Drawer 1431  
Duncan, OK 73536-0440  
Telephone: 580-251-3125  
**ATTORNEY FOR APPLICANTS**

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